



Patent  
Attorney Docket: 612,404-435

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

**GREGORY T. KOVACS**

Serial No.: 10/764,041

Filed: January 23, 2004

For: ADDRESSABLE BIOLOGIC  
ELECTRODE ARRAY

Group Art Unit: 1743

Examiner: ARLEN SODERQUIST

TERMINAL DISCLAIMER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, David P. Dalke, represent that I am an attorney of record for the above-identified application. NANOGEN, INC. (hereinafter referred to as "NANOGEN") is the owner of 100% interest in the above-identified invention by virtue of assignment from the inventor to NANOGEN in the parent application, U.S. Application Serial No. 08/677,305, filed July 9, 1996, now U.S. Patent No. 5,965,452. The assignment from the inventor to NANOGEN was recorded in the Patent and Trademark Office on September 18, 1996, on Reel 8184, Frames 0484-0488.

01/03/2006 YPOLITE1 00000058 502862 10764041

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CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Alexandria, VA 20231.

Date of Deposit  
NB1:672300.1

*Denise Doss*  
Name of Person Mailing Paper  
*Denise Doss*  
Signature of Person Mailing Paper

NANOGEN hereby disclaims the terminal part of any patent granted on the above-identified application which would extend beyond the expiration dates of the full statutory terms of U.S. Patent Nos. 5,965,452, 6,258,606, 6,682,936, and 6,867,048, which patents are presently assigned to NANOGEN. Moreover, NANOGEN hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 5,965,452, 6,258,606, 6,682,936, and 6,867,048, this agreement to run with any patent granted on the above-identified application and to be binding upon NANOGEN, its successor, or assigns.

NANOGEN does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory terms of U.S. Patent Nos. 5,965,452, 6,258,606, 6,682,936, and 6,867,048 in the event that any of these patents later expire for failure to pay a maintenance fee, is/are held unenforceable, is/are found invalid, is/are statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.312(a), has/have all claims canceled by a reexamination certificate, or is/are otherwise terminated prior to expiration of their statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

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Applicant believes that no additional fees are due with this Replacement Terminal Disclaimer. However, the Commissioner is hereby authorized to charge any additional fees that may be deemed due in connection with this filing to counsel's Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: December 27, 2005

By: David P. Dalke  
David P. Dalke  
Reg. No. 40,980  
Attorneys for Applicant

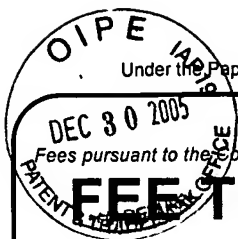
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PATENT TRADEMARK OFFICE

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IFW

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# TRANSMITTAL for FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$65.00)

## Complete If Known

Application Number	10/764,041
Filing Date	January 23, 2004
First Named Inventor	KOVACS
Examiner Name	Soderquist
Art Unit	1743
Attorney Docket No.	612,404-435

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 50-2862 Deposit Account Name: O'Melveny & Myers LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17

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## FEE CALCULATION

### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

### 2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee Paid (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b> - 20 or HP = _____ x _____ = _____	<b>Multiple Dependent Claims Fee (\$)</b>	<b>Fee Paid (\$)</b>
HP = highest number of total claims paid for, if greater than 20		
<b>Indep. Claims</b> - 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3		

### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets** - 100 = \_\_\_\_\_ **Extra Sheets** / 50 = \_\_\_\_\_ **Number of each additional 50 or fraction thereof** (round up to a whole number) x **Fee (\$)** = **Fee Paid (\$)**

### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal Disclaimer

65.00

## SUBMITTED BY

Signature	<u>David B. Murphy</u>	Registration No. 31,125 (Attorney/Agent)	Telephone 949.760-9600
Name (Print/Type)	David B. Murphy		Date December 28, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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